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ABSTRACT

Subscription television (STV), established by the Federal Communications Commission (FCC) in 1968, involves transmitting television programs over the air to viewers who pay for the service. The development, trial operation, and test results of subscription television are described in this report, along with four Commission reports, and FCC regulations concerning its operation and programing. (SC)

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Federal Communications Commission, Washington, D.C.

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INFORMATION BULLETIN

Subscription Television (STV - Pay TV)

WHAT IT IS

Subscription television (STV), or pay TV, involves transmitting television programs over the air to viewers who pay a fee for the service. The transmissions are broadcast by a television but are "scrambled" so they may be received properly only by a receiver equipped with a decoder.

A subscriber who tunes his television set to the channel on which the station operates will see a scrambled picture and hear scrambled or garbled sound. To receive the program in unscrambled form, he activates the decoder.

The FCC has approved several systems, among them one by which the subscriber pays a flat monthly fee for the decoder and can receive unlimited STV programing. Under another method, the decoder records on tape the fact that a particular program has been viewed; at the end of the month, the subscriber pays for programs the tape reports were viewed.

HOW PAY TV DEVELOPED

Section 303(g) of the Communications Act requires the Commission to "study new uses of radio, provide for experimental uses of frequencies, and generally encourage the larger and more effective use of radio in the public interest".

The FCC authorized preliminary over-the-air toll TV experimentation as early as 1950. In that year, the Skiatron system was tested over WOR-TV, New York City. In 1951, the Telemeter system was tested over KTLA(TV), Los Angeles, and Zenith tested its system over its own experimental station in Chicago. These tests were made without general public participation, using a limited number of special receivers.

On February 10, 1955, the Commission instituted a proceeding to determine whether it should authorize TV stations to transmit programs paid for on a subscription basis (Docket 11279). Resulting comments on the many legal, technical, and policy questions involved in this and subsequent steps of the proceeding produced 92 docket volumes reflecting the views of more than 25,000 persons.

Two of the legal points on which comments were invited were whether the Commission had authority under the Communications Act to authorize and regulate subscription TV operations, and whether such operations constituted "broadcasting" within the meaning of the Act.

On May 23, 1957, the Commission concluded that it had authority to authorize the use of TV broadcast frequencies for subscription operations if it found it would be in the public interest to do so. It left for future determination whether this service was broadcasting or should be classified as some other service.

The Commission also said it believed trial demonstrations of toll TV were essential to a proper evaluation of the complex and difficult problems involved in the proceeding, and invited comments on the conditions under which trial operations might be authorized.

At that time, only three systems for encoding and decoding TV signals had been presented to the FCC. The systems differed mainly in the way the transmissions were scrambled and unscrambled, and whether coin boxes, punch cards, or tape were used to bill subscribers.

FIRST REPORT

On October 17, 1957, the FCC adopted its first report in the proceeding. It indicated it was prepared to consider applications to conduct trial pay TV operations over TV stations if prescribed conditions were met.

The Commission held that a test was necessary to: (1) enable the public to register its own judgment on such a service, (2) obtain information to help the FCC determine the competitive impact of pay service on the free system, (3) obtain operating information about any need to standardize technical equipment and methods, and (4) determine on the basis of experience whether toll TV service required additional controls, including possible amendments to the Communications Act.

SECOND REPORT

In a second report released February 27, 1958, the Commission deferred action on applications for trial pay TV operations until after the close of the 85th Congress to afford Congress an opportunity to consider pending legislation on the issue. This was in accord with resolutions adopted February 6 and 19, respectively, by the Interstate and Foreign Commerce Committee of the House and the Commerce Committee of the Senate. The Commission on July 23, 1958, continued the status quo so that the first session of the 86th Congress could resume consideration of the subject. No national laws affecting pay TV were then or have since been adopted.

PUBLIC PAY-TV TESTS

Upon further review, the FCC on March 24, 1959, issued a third report announcing it was prepared to consider any pay TV application by a commercial TV station (or by an applicant for such a station) conforming with revised requirements set out in the third report.

Among other things, these conditions limited three-year trial authorizations to markets in which there were at least four commercial TV stations (including the pay TV operator's), to the trial of any system in only one market, to one trial system per market, and to subscriptions being broadcast over only one local TV station at a time.

The Commission also decided that, to get the trial pay TV programs, the public should not be called upon to purchase any special equipment not needed to obtain free TV programs, and that stations engaging in pay TV operations must broadcast the minimum hours of free programs.

HARTFORD TEST

On June 22, 1960, Hartford Phonevision Co., (later RKO General Phonevision Co.), licensee of WHCT, Channel 18, Hartford, Conn., applied for authorization to conduct a three-year trial subscription TV operation over that station. Objections were received and a hearing was held the following October (Docket 13814). The Commission on February 23, 1961, granted the application.

On March 8, 1962, the U. S. Circuit Court of Appeals upheld the Commission's power to authorize the Hartford test, and on October 8, the U. S. Supreme Court declined to review that decision. The station began toll TV operations June 29, 1962, and concluded them in January 1969.

Participating in the Hartford test were RKO General, Inc., (of which RKO General Phonevision Co. was a wholly-owned subsidiary), holder of the local franchise for the Phonevision subscription system used in the trial; Zenith Radio Corporation, developer and patent holder of that system; and Television Entertainment Co., Inc., (Teco), Zenith's patent licensee. RKO paid the expenses of the test.

(In 1962, the Commission authorized a public pay TV test by KTCO, Channel 2, Denver, but the project, never started, was abandoned in 1964.)

TEST RESULTS

The Hartford experience and other information in the record (Docket 11279) suggested that about 85 percent of pay TV programing would be feature films. Other programing would consist of sports events not available on conventional TV, plus the required 10 percent of programs other than sports and feature films.

In addition to the normal rental and installation charges, the average per-program cost of feature films to the Hartford subscriber was slightly more than $1 per showing, regardless of the number of viewers for each set.

While no heavyweight title fights were shown on conventional TV during the Hartford trial, they were shown in theaters and auditoriums on closed-circuit TV. One of the Liston-Clay fights was shown on theater closed-circuit TV in Hartford at $5 per person and on Hartford pay TV for $3 per subscriber. A survey conducted after the fight showed that an average of nine persons watched each set tuned to the pay TV station.

FURTHER PROCEEDINGS

On March 10, 1965, Zenith and Teco filed a joint petition for further rulemaking in Docket 11279 to authorize nationwide over-the-air subscription television.

In a further notice of proposed rulemaking and notice of inquiry adopted March 21, 1966, the FCC expanded the proceeding to include not only over-the-air pay TV but also the question of what the approriate role, if any, of the Federal government should be with regard to wire or cable subscription television operations.

On July 3, 1967, the FCC's Subscription Television Committee submitted to the Commission a proposed fourth report and order. This proposed an over-the-air subscription television service. The rules were designed to integrate subscription television into the total TV system so that good programing would continue to be available over conventional TV stations, but those wishing to do so could also see subscription programs.

PAY TV ESTABLISHED

To aid in resolving the issue, on October 2 and 3, 1967, the Commision held oral arguments primarily on the fourth report and order. It was from these proceedings that, on December 12, 1968, the Commission formally established over-the-air subscription television as a regular broadcast service. Operators of the new service were required to have the usual license needed for a television broadcasting station plus separate authorization to use the station for pay TV.

Technical standards for the new service were established September 4, 1969. They authorized those engaged in pay TV to use any technical system that had been certified by the Commission.

FINAL COURT TEST

Because pay TV programing was expected to rely heavily on current feature films, motion picture theater owners were concerned about the impact the new service would have on their industry. The National Association of Theater Owners and the Joint Committee Against Toll TV appealed the case to the U. S. Circuit Court of Appeals for the District of Columbia. On September 30, 1969, that court affirmed the FCC's action. The U. S. Supreme Court denied a petition for review, thus ending the litigation and leaving the lower courts decision in effect.

FCC REGULATION

The rules governing pay TV are designed so the service will supplement conventional television, not replace it. To make sure that conventional TV remains a viable service and that the viewing public's investment in television sets purchased in the expectation of receiving programs from conventional stations is protected, the Commission adopted a number of rules that limit the number and scope of pay TV operations and provide protection against the removal of program material from free TV for use on pay systems.

For example, only one station in a community may be authorized to engage in pay TV operations (it may be a new station or one already in operation) and this sole authorization may be granted only in communities that also receive conventional commercial TV from at least four stations in addition to the pay TV system. Educational TV stations and CATV systems do not count in calculating the number of stations. The FCC also does not require that the four stations be licensed to the community in which pay TV is authorized, but it does require that viewers in the community receive at least four commercial stations off the air.

At least 10 percent of pay TV programing must consist of other than feature films and sports events.

The rules were not designed to give 100 percent protection to conventional TV, since the Commission felt that some degree of competition between that service and pay TV could result in benefit to the viewing public.

FEATURE FILMS

The rules permit feature films to be broadcast on pay TV under these conditions only:

- If the film has been in general release in U. S. theaters for three years or less prior to its proposed broadcast, or
- If a conventional TV station in the subscription television station market holds a right to exhibit the film; or
- If the film has been in general release to theaters in the U. S. for more than 10 years prior to its proposed pay TV broadcast and has not been shown over conventional TV in the subscription station's market for three years; or

o If the film is in a foreign language.

Feature films otherwise excluded by the rules may be broadcast if it can be shown that they are not desired for exhibition over conventional television in the market, or that the owners of the broadcast rights to the film, even without the existence of subscription TV, would not make the film available to conventional television.

SPORTS EVENTS

Sports events may not be broadcast live except where the specific event has not been carried live on conventional television in the market of the pay TV station in any one of the five seasons preceding the proposed subscription broadcast.

Regularly recurring events such as the Olympic Games may not be shown on a subscription basis if they have been carried live on conventional TV in the subscription market during any one of the 10 years preceding the proposed pay TV broadcast.

New specific sports events resulting from the restructuring of existing sports may not be broadcast on a subscription basis until five seasons after their first occurrence.

HOW TO APPLY FOR STV

Subscription TV authorizations will be granted only to licensees or permittees of commercial television broadcast stations. Such an authorization will be issued only for a station whose principal community is located entirely within the Grade A signal contours of five or more commercial TV stations (including that of the applicant), whether the principal community each station is authorized to serve is the same as that of the applicant, or is a nearby community.

Criteria for STV applications are detailed in the Commission's fifth report and order, adopted September 4, 1969. The application, among other things, must spell out the methods for disseminating coding information and for billing and collecting charges, the terms of subscriber contracts, and the approximate number of subscribers to be served.

Applications must contain information sufficient to enable the FCC to determine that the applicant and franchise holder (whether or not commonly owned) have the financial capacity to continue operations for one year after construction of the STV facilities.

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